

TESTIMONY OF EXPERTS ABSOLUTELY WORTHLESS.

Declares Judge Humphreys in Kaili-kea Case.

EVIDENCE DISSECTED.
CAULEY QUOTED BY THE COURT TO CORROBORATE AN ARGUMENT.

The Plaintiff, if She Has Played a Part, Is Worthy to Be Classified With Great Actors.

Judge Humphreys has rendered an oral decision in the case of Kaili-kea vs. Hapa et al. The case was a motion to set aside a deed on the ground that Kaili-kea was non compos mentis. The plaintiff owns land at Moanalua. She sold to the defendant land valued at \$600 and bringing an income of \$60 a year, for \$100.

"The record in this case," said the court in rendering the decision, "contains a great deal of rubbish, a mass of immaterial, incompetent and impertinent matter, and like all cases that are hotly contested, it is a mosaic of truth and falsehood, of affirmation and denial, of assurance and doubt. The court cannot undertake and will not undertake to base its decision upon one isolated or detached fact or circumstance."

"The expert evidence, with possibly the exception of Dr. Emerson's testimony, which was marked with some degree of modesty and candor, is absolutely worthless, and reflects no credit upon the witnesses themselves or upon the profession to which they belong. Take Dr. Sloggett's testimony, for instance, the first witness sworn as an expert. He says that some two years ago he was called upon to examine this woman at his office, she being brought to him by Mrs. Theresa Wilcox; that he had no previous acquaintance with Mrs. Wilcox; he did not know and made no inquiry as to her character or standing in this community; that he did not know whether she had any ulterior motive in having this woman pronounced sane or insane; that he attempted at such examination to carry on some conversation with complainant, but failed to elicit any intelligent reply to his questions; indeed, that she would not talk at all."

He says that he was informed in substance by Mrs. Wilcox that she had known this woman from childhood, and that she had always been an idiot. The doctor made no physical examination of the complainant; * * * he made absolutely no inquiry into her family history, did not inquire as to her parentage; did not inquire even as to the mental condition of her property; indeed, I am not sure that this record shows that he knew she had any children. He made no inquiry as to whether or not the complainant, in early life, had met with any accident."

" * * * He came into this courtroom and, before taking the witness stand, demanded a fee of \$50 for giving expert testimony, and before he left the stand expressly admitted that he was not an expert, and that even an ordinary layman could testify as accurately and intelligently about this case as he had done. I say a man who enjoys the privileges accorded medical men, exempt from jury duty, and from perhaps other civic responsibilities, who so far forgets his obligations to society and to his profession as to place himself in the attitude in which Dr. Sloggett has placed himself, almost voluntarily, I may say, because there is no evidence that he was required to give a certificate, it was a voluntary act, based on insufficient evidence, an act which he admits is not entitled to any credit—I say a man who will place himself in that position deserves at the hands of the court severe criticism and censure."

"Dr. Howard's testimony is very little better. He called to see this woman at her home several times, and found her out, or it was said she was out. Finally he succeeded in finding her at home. He said he talked with her for about fifteen minutes, and when asked to detail the conversation, all he could say was that he asked her whether she owned any land. She said she did. He asked her whether she desired to sell the land. She said no. He asked her why she didn't desire to sell it, and she said because when the railway was completed to Moanalua her land would greatly appreciate in value, and she could then sell to very much better advantage. That is the conversation in sum and substance of what he says occurred, and which, according to his testimony, covered a period of fifteen minutes."

"He made no inquiry as to her antecedents. He made no physical examination whatever. He did not inquire whether the woman had ever met with any accident in early childhood, or whether she had been or was a sufferer from any of the diseases peculiar to women. He made no inquiry as to the health of her children. He simply concluded from a brief conversational examination that the woman displayed considerable foresight, shrewdness and cunning, and that she was sane, because she declined to sell her land and wanted to hold it until the street car reached the vicinity in which she lived. He did not even make inquiry as to whether or not that was common talk which this woman had heard for months and which she was repeating as a mere parrot. He did not know, despite the fact that this woman said she didn't wish to sell her land, that she had actually sold a piece of property, according to the admission in the case, worth \$600, bringing in an income of \$60 a year, for the sum of \$100."

"If Dr. Howard's testimony is true that this woman did not wish to sell her land because of the railroad approaching that locality and thus enhancing its value, it does not accord

with the actual fact that she did sell it for about 18 per cent of its value."

"Doctor Howard further testified that when he left this woman's home he met a boy, and the boy enquired where he had been, and the doctor said he had been to see Kaili-kea about buying her land, and the boy said: 'Yes, she is my mother. She is too smart and knows what she is doing.' Had that testimony been objected to the court would have stricken it out. There is no evidence that the boy was Kaili-kea's child. No evidence except his representation to Howard."

"Doctor Emerson's testimony is that he went to see the woman; that he had some conversation with her, and reached the conclusion that she was capable of managing her own affairs. He made no physical examination of the woman, * * * although he admitted, as did the other doctors, that such an examination was essential in insanity cases and cases of idiocy; that such an examination should be made; his excuse for not having done so, while acceptable to the court, does not add anything to the probative force of his testimony. The excuse is that he did not have the opportunity under the circumstances, being a mere visitor at this woman's home, to make a physical examination. The circumstances were such as not to permit of his making an examination such as would enable him to arrive at a conclusion on which he himself would be willing to place absolute confidence. He made some inquiries as to her antecedents, but the information on this point was furnished him by the defendant, Kaili-kea, who is and was then interested in establishing the sanity of complainant."

"The court in this case is not bound, nor would a jury be bound, by the mere number of witnesses who testify. A great deal of negative testimony has been introduced here, friends and neighbors who say they never saw Kaili-kea do what they are witnesses as to her antecedents, who, when charged with a crime, and was asked: 'Can you get any witnesses?'"

"Yes," said he, "I can get a thousand who did not see me do it."

"That seems to be the theory on which the defense, in a measure, has based its case. * * * These witnesses seem to be fair. Prima facie they seem to be fair witnesses, of an equal degree of intelligence with the witnesses for complainant, but this testimony is almost wholly negative."

"I discard the testimony of the experts entirely. I regard it as absolutely worthless, and I think the testimony of these experts justifies the severe strictures which courts have from time to time made on expert testimony. What Vaudeville said of statistics is applicable to some extent to experts: 'They are kind mercenaries employed by either side to establish facts for which either side contends.'"

"The court then reviews the act of the grandmother of the complainant in early life, and continues: 'That fact alone would not justify the court in finding this complainant to be an idiot. The fact of complainant's father being a paralytic standing alone would not justify the court in finding her an idiot. The fact that complainant in early life practiced the disgusting acts which characterized her grandmother, and that she rarely spoke, and when spoken to did not answer intelligently, or that when spoken to she would run and jump into the water. Any of those facts alone would not justify the court in finding her non compos mentis.'

"The fact that she had four children, at least two of whom are imbecile children would not justify the court in finding her to be a person of unsound mind. The fact that she sold a piece of property admitted to be worth \$600 and bringing a rental of \$60 per year, for \$100, would not justify this court in finding that she was a person of unsound mind. Put, take all of these facts, take these threats and twist them into a rope, and this court is forced to the conclusion, a conclusion that cannot be avoided when coupled with the physical evidence before the court that complainant is a person of unsound mind and that this transaction was a vicious one. A court of equity, a court of conscience, it places its strong hands on those who perpetrate fraud on those too weak to protect themselves. The strong need no protection. Intelligence, wealth, vigor, social position, may afford immunity from outrage, craft, cunning or fraud, but the weak and the helpless find their protection in the courts, and in that refuge which the law has afforded them."

"The testimony shows that this woman (and the answer admits the property is worth \$600) sold the property in question for \$100. There is absolutely no testimony other than the testimony of the defendant Hapa that even this small sum was actually paid. The defendant in this case, Hapa, seemingly without any embarrassment or sense of shame, confessed that he had been convicted a number of times in the police courts of this country, once for theft, for which he received a three months' sentence. This is another strong fact. Not a controlling one, but considered in connection with the other facts, it is more or less important. At common law the court required no expert testimony as to whether or not in a given case a person was an idiot. The question was tried largely by inspection. Bring a person into this courtroom who has but one eye, and that in the middle of the forehead. Every physician in Honolulu might come into court and swear such a person not a monstrosity and like the ordinary individual, yet the court would not have its conscience trammelled and controlled by any such opinions. A man comes into this court without a nose. Where that organ should be located the face is perfectly smooth. He breathes through his mouth. The court does not require expert testimony to conclude that the man is a monstrosity. A woman comes into this courtroom without any expression on her face, her gait is hesitating and halting, the glands of her neck are abnormally enlarged, she sits humped in her chair for three days, and when put upon the witness stand she is perfectly helpless, mentally. A physician takes the witness stand and says the woman is not an idiot. That is merely the expression of his opinion and the court can arrive at its own conclusion by observing her manner and bearing with as much accuracy as the doctor. Dr. Howard says this woman is acting her part. He is expressly contradicted by Dr. Emerson, who says the woman is not acting. An individual occupying the station of life occupied by this woman, unlettered and untutored as she is, is not likely to come into this courtroom and attempt to impose on the intelligence and conscience of the court by a play. If this woman has done that, she has played her part most successfully, and I believe if such is the case she is entitled to stand on the same plane with Jefferson as Rip Van Winkle; with

Barrett as the lean and hungry Cassius, or with Booth as Hamlet in his effort to deceive the Queen mother of Denmark as to his sanity."

The court believes and finds from the evidence in this case that the complainant is an imbecile and of unsound mind, and that defendant Hapa perpetrated a fraud on her; that she has been overreached and unfairly dealt with in that the price paid or alleged to have been paid, for her land is so disproportionate to its admitted value as to shock the conscience. I also find that the other defendant, Kapale, is chargeable with notice of her imbecility and unsoundness of mind, and with such notice of the facts and circumstances under which Hapa acquired his title as to deprive him of the defense which he might offer, and does offer, so-wit, that of being an innocent grantee. I think the position of Kapale, in this case, in view of the fact that he is a minister of the Gospel, is highly reprehensible. I think he has done what has often been done before—he has clothed his rascality under the cloak of religion, and, in Hawaii, as elsewhere, that is not without precedent."

"FIGHTING BOB" TALKS FOR YANKEE SUPREMACY.

Believes United States Should Be Dominant Power in Affairs in the East.

ST. LOUIS, July 21.—Captain Robley D. Evans, United States Navy, "Fighting Bob," who has been taking baths at Hot Springs, Ark., for two months, passed through this city this forenoon en route to Washington. While at the Union station he talked freely about the situation in China, and among other things said: "In my estimation, the great powers of the world are facing the most critical situation in modern history. To put it vigorously, they are sitting on powder barrels, and an explosion may come at any time. If it does it will annihilate present national boundaries and change the map of the world so that it will not be recognizable."

"I do not believe in the talk that China may become a world power of its own force. It stands in immediate danger of dismemberment, and the partition of the empire can only be prevented by the United States. I approve of the policy of the administration as now outlined. This country cannot afford to stand by and see China divided up among European governments without making a protest that will shake the world and announce to all the earth that this nation must be supreme in the East because it holds the Philippines."

"RAZE PEKING," SAYS CHAUNCEY M. DEPEW.

NEW YORK, July 24.—The Journal has the following from Paris: Chauncey Depew said today: "History furnishes no such atrocity as the Chinese massacre. Embassadors have always been held safe, because an Embassador represents his country's honor and is a power in a foreign country. The Chinese by slaughtering the representatives of all the nations in Christendom and by the murder, torture and mutilation of the women and children, have challenged the civilized world. 'As punishment everything which represents official life in China in her capital should be razed to the ground. No stone should be left upon a stone. There should be no land, no sea, no partitioning of Chinese territory, but an indemnity exacted which would paralyze the Chinese power for evil for a century to come.'"

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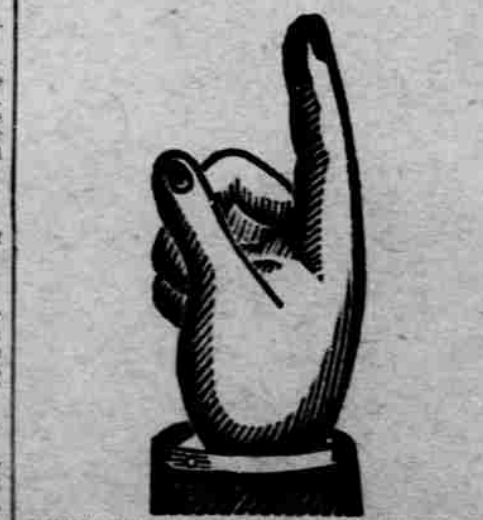
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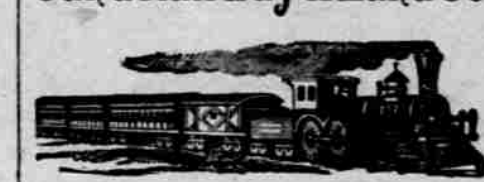


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From and After January 1, 1900.

Stations.	OUTWARD.				INWARD.			
	Daily	Daily	Daily	Daily	Daily	Daily	Daily	Daily
	ex	ex	ex	ex	ex	ex	ex	ex
	Sun	Sun	Sun	Sun	Sun	Sun	Sun	Sun
Honolulu	8:00 a.m.	11:35 a.m.	2:15 p.m.	5:10 p.m.	7:10 a.m.	11:35 a.m.	2:15 p.m.	5:10 p.m.
Pearl City	8:03	9:48	11:40	3:47	5:50	7:13	9:48	11:40
Ewa Mill	8:23	10:08	12:00	4:05	6:10	7:13	9:48	11:40
Wahiawa	8:50	10:25	12:20	4:35	6:40	7:13	9:48	11:40
Wailua	9:15	10:50	12:45	4:55	7:00	7:13	9:48	11:40
Kahuku	9:35	11:10	1:05	5:15	7:20	7:13	9:48	11:40

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